





S P E E C H  
OF  
Mr. J. C. RYKERT, M.P.,  
ON  
JESUITS' ESTATES ACT,  
DELIVERED IN THE  
HOUSE OF COMMONS,  
OTTAWA,  
ON TUESDAY, MARCH 26th, 1889.

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Mr. RYKERT. I think, Mr. Speaker, that if the predictions of the hon. gentleman are correct as regards the feelings of the country upon this question, then it is absolutely useless for me to say one word to this House. I entirely dissent from the proposition, or from the assertion of the hon. gentleman, that the great majority of the people of this country are in favor of the disallowance of this Act in question, and I unhesitatingly assert that the majority of the people of this Dominion are not in favor of its disallowance. The hon. gentleman has taken that ground; I cannot tell from what source he gets his information, except from the public press, but I venture to say that if the Province of Ontario were canvassed to-day, without prejudice, without religious bigotry, the people fully understanding the question, the vast majority of the people would dissent from the proposition of the hon. gentleman. We are told outside of this House, and inside of this House, that certain religious bodies and certain bodies in this country are in favor of disallowance. We are threatened, Sir, by the public papers and the public organs throughout this country with decapitation, and with being driven from Parliament if we dare, upon the

floor of Parliament, to assert our right to declare that this Act is constitutional. I am told, Sir, and the public press repeats it day after day, that no Orangeman dare stand upon the floor of Parliament and speak in favor of allowing this Bill to go into operation. I, Sir, am an Orangeman, and I will dare so to speak. I speak as an Orangeman and I say: that I fulfil all the tenets of my order, and that I am just and right in supporting the Government in the course it has taken. I speak upon this question because we are told and threatened by papers that if we favor allowance we will be exterminated from the order. Sir, it is one of the first principles of the Orange Order that there should be civil and religious liberty for all. Allow me to quote one portion of the constitution of that order, and, when I do so, I do not think that any person will say that I am not justified in taking the stand I am taking here to-day. It says:

"Disclaiming an intolerant spirit, the Association demands as an indispensable qualification, without which the greatest and the wealthiest may seek admission in vain, that the candidate shall be deemed incapable of persecuting or injuring anyone on account of his religious speeches; the duty of every Orangeman being to aid and defend all loyal subjects of every religious persuasion in the enjoyment of their constitutional rights."

I say, Sir, that I fulfil the precepts of the order, in standing up to defend the action of the Government in refusing to disallow this Bill. I would be sorry to incur the hostility of a large portion of the people of the Province, as my hon. friend (Mr. O'Brien) says, but, Sir, I have upon another occasion had an opportunity of facing public opinion on a similar question, and I am prepared to go back to my constituents on this issue, and when I put the question fairly before them, and when they fully understand it, I have no doubt they will say I was right in supporting the Government, and that the Government was right in pursuing the course it did. I am not prepared to join this crusade, or this unholy alliance against my Roman Catholic fellow-countrymen; I am not prepared, Sir, as one professing strong Protestant views and professing the principles of the Protestant religion, to join in this crusade, and, as I said before, this unholy alliance against my Roman Catholic fellow-countrymen. Day after day we see the press endeavoring to inflame the public mind on this question; we see them day after day trying to stir up religious animosity and strife in every portion of this community, but that unfortunate spirit I am glad to say, has not yet reached the Orange Order. It has reached the public through a certain class of ministers in this country,

who seem determined, at whatever cost, to drive Pope and Popery from this country. That seems to be the groundwork of the whole opposition of this class to which I refer, and I think I will be able to show, before I sit down, that that is their whole aim. I am familiar with the history of the past in this country, I am familiar with what took place prior to Confederation, when, Sir, in the old Parliament of Canada the great fight was against Lower Canadian domination. What was the cry then? It was: "We are trampled upon by our Roman Catholic fellow-countrymen." Fortunately for this country, our people united at the time of Confederation, they threw aside their religious differences and joined together for the common good of their common country. Is it to be said that after twenty-one years of our existence, one section of the people of this country is to be found fighting against a large body of their Roman Catholic fellow-citizens and urging us to throw a stumbling block in the way of the progress of the Confederation. We must remember that in this country we have made great national progress by joining together and throwing aside those religious cries. We have done all that we could do to perpetuate a good feeling upon this continent, and I am happy to say, Sir, that the united action of Catholics and Protestants of Canada has led us to-day to a prosperous and progressing condition. I would like to know if we ought to accept the advice of my hon. friend from Muskoka (Mr. O'Brien) and send the firebrands throughout this country to array one religion against another. What must be the inevitable result of that? The result will be that it will drive every Protestant member of Parliament from the Province of Quebec, and I would not blame the Roman Catholics for that; I think they would be justified in doing so, if the Protestants of Ontario would adopt the same course in that Province and drive out every Roman Catholic member. But I believe that any person who takes a fair view of the question will not say that it is a right course to pursue. I say, Sir, that this agitation is an attempt upon the part of a certain portion of the Protestants of Ontario, not to stand by the minority in Lower Canada, but over the heads of the Jesuits to attack the Roman Catholic faith. I am not here to-day to defend the Jesuits, nor am I here to speak of their past history, but I may be permitted, before I sit down, to quote one or two observations in connection with their past history from competent authorities, in opposition to what my hon. friend says. I did hope that upon the discussion of this question nothing of the history of the past

would be imported, but that we might be allowed to consider it on its merits, as to whether the Government were right or wrong in refusing to disallow this Bill. The people of the Province of Ontario have been inflamed and fired, as I said before, by enthusiasts and fanatics upon this question. I will take the ground in opposition to them, and I think I will be able to show to the House and to the people of this country the position which those I have referred to occupy on this question. The first paper which seems to have taken up the crusade is the *Mail*. It was said a few days ago that the *Globe* had made a wonderful somersault, but I venture to assert that the *Mail* took a greater somersault on this question than the *Globe*. The *Mail* has occupied several different positions in the matter, and we find that in the wind-up it calls on the people of this country to "prevent the encroachment of the French into the Province of Ontario." Some time ago the *Mail* said, referring to the Provincial Legislature on the Jesuit question :

" They have exceeded their powers."

And it goes on to say :

" We are ready, however, to argue the question on the narrower ground and to maintain that in endowing religious propagandism out of the public taxes, the Legislature of Quebec has exceeded its powers."

Mark you, Sir, the *Mail* says that "the Legislature has exceeded its powers;" and what are we to do then, are we to disallow this Bill? No; you must not disallow it, but you must go to the courts to seek for a remedy. The *Mail* further says :

" Acts done in excess of legal powers do not call for the use of a veto ; they are void, and will be declared void by the courts of law. A veto is a political, not a judicial power, and is given as a political safeguard. It is given to the national Government of Canada to guard the nation against action, on the part of any of its members, injurious to its interest as a whole, to its honor, or to its unity."

In this extract this paper takes the ground that the Act is *ultra vires*, that it is beyond the power of the Local Legislature, and as such it should be fought in the courts. Then the *Mail* takes another stand, and on the 22nd of March it says :

" A French Canadian contemporary says : 'The *Mail* rests its whole case against the Jesuits upon the alleged unconstitutionality of the Estates Act.' This is a mistake. The strongest objection to both Acts is that they are contrary to the public interest. The prerogative of disallowance is frequently exercised on this high ground against measures that are perfectly constitutional and *intra vires* of the Provincial Legislatures."

Sir, if that be the case I will be prepared to show that it is not in accord with the views taken by those celebrated law journals of the Province of Ontario, which took altogether another ground, and which ground has convinced the *Globe* newspaper that it was wrong in pronouncing in favor of the allowance of the Act. You will see from this that the *Mail* commences by declaring the Act *ultra vires* and unconstitutional, and, in the end, that it demands the disallowance of the Bill upon the ground that it is against public policy. It is hard to tell upon what ground that paper chooses to take its stand upon this question. Day after day we have been favored with the history of the Jesuits and their rascalities and misdeeds in days gone by, of which my hon. friend speaks so feelingly; and the *Mail* newspaper usually winds up by calling on the Protestants of Ontario to put an end to the encroachment of Popery in this country. On the 14th of March, we find this language, which I commend to my friends from Lower Canada:

"If the British and Protestant element in Quebec will not save itself, we must try to save it for our own sakes. That the abandonment of Quebec to the Ultramontane and the Jesuit will be the death of Canadian nationality is clear enough. For Ontario will not be safe. Our eastern gate has already been opened by the perfidious hand of the vote-hunting politician, and French and Roman Catholic invasion is streaming through. The French priest, it is true, cannot formally import into Ontario his Church establishment and his system of tithes. But this matters little if he can thrust out the British population and plant in its room a population which will be under his sway, and from which he can wring practically any payments which he thinks fit. The assessor, moreover, will be his creature, and he will be able to distribute the burden of local taxation between the faithful and the heretic pretty much at his pleasure. He will, to all intents and purposes, detach eastern Ontario from the British and Protestant civilisation, of which it now forms a part, and annex it to the territory of the French race, which is also the dominion of the priest. No distortion of facts by sophistical rhetoric, no hypocritical protests against race feeling, will hide from us either the gravity or the imminence of this result."

After its long labor of the last three or four months in portraying the history and misdeeds of the Jesuits, this paper holds this question up as a sort of bugbear to frighten the people of Ontario into opposition to the Government, and finally winds up by coming out in its true colors and saying that they must prevent the encroachment of the Roman Catholic Church and the French Canadians in Ontario. Now, we find that for a long time the late organ of some hon. gentlemen opposite was very strong on this question. It discussed it from all points of view, both on its merits and on its constitutional aspects, and on several occasions it has taken a very strong stand in favor of the Bill being allowed, and in support of the contention of the present Government. But while this strain runs through

all the editorials, you will find in them a strong feeling against the Dominion Government, and a desire to excite against that Government not only the Protestants of Ontario, but the Orangemen as a body. With that object in view it calls attention to the fact that on the 12th of July, which is a famous day in the history of Orangemen, the Tory Lieut. Governor of Quebec allowed the Jesuit Bill. That was done to inflame Orange feeling against this Government. It went on to say :

"These citations clearly show that the Liberals, if they were in office at Ottawa now, could not disallow the Jesuits' Estates Act without enormous inconsistency. With equal clearness these citations show that the Conservatives are not only free to disallow the Act, but are bound in consistency to disallow it if they believe it to be wrong in principle and unjust to the Protestant minority."

Then, on the 4th of March, it pointed out the danger that this country was running into, and that the result must be the breaking up of Confederation. It says :

"Again we ask, Should the Bill be allowed or disallowed? A Protestant of a practical turn of mind may well answer: 'I can't tell—it's six of one and half-a-dozen of the other.' The truth is that the people of Ontario are at the cross-roads where they must decide either to continue with or separate from a Quebec that is ever becoming more thoroughly Roman Catholic. If Ontarians wish to perpetuate the Confederation they will quietly accept Sir John's allowance of the Jesuits' Bill. If they can't stomach that allowance they may as well face the truth like honest men and acknowledge that they really do not think the Confederation worth preserving. The course of the *Globe* has been, and will be, perfectly straightforward. We do not mean to blame Sir John Macdonald—"

Do you believe that? I do not, for one.—

"We do not mean to blame Sir John Macdonald if he stands by his disallowance theories and vetoes the Bill. We will not in any way aid any persons who may endeavor to excite race and creed passions over the affair. If the people of Ontario hold great meetings to press for disallowance, and if they otherwise signify that they are sincerely desirous to enter upon a serious struggle with Quebec, we will advise them that the end can be nothing else than the destruction of the Confederation, and that it would be incomparably better for all concerned that the Federal compact should be quietly dissolved now than dissolved after and in consequence of a long, bitter conflict that would be, at best, a savage verbal struggle, and at worst one marked by riot, bloodshed and civil war."

These were the predictions of the late organ of the party of hon. gentlemen opposite, and, if the consequences were to be such as the *Globe* newspaper predicted, one would suppose that the Government of the country were justified in allowing that Bill. But, Sir, on the 16th of March, a day, I suppose, ever memorable in Room No. 6 in this House, we find that the *Globe* newspaper made the somersault, and I venture to assert that no public paper in



this country ever made such a somersault. We have also the opinions of other papers. I will only read a few, and I do this, not with the view alone of being heard in this House, but I have to answer to my constituents, and I want to place my case before them should I ever ask them for their suffrages again. The *London Advertiser* of March 14, says:

"From the quotation given by Dr. Grant from Mr. Mercer's speech in moving the Quebec Legislature into Committee on the resolution it is clear that the purpose was not to acknowledge any authority in the Pope in the legislative affairs of the Province, but to secure finality in a dispute long pending."

The *Hamilton Times* of October 19, after waking up to the sudden conversion of the *Globe*, deals with the question from the constitutional point of view, and I commend its language to my hon. friend from Muskoka:

"By some it is claimed that the mention of the Pope's name as a party to the Bill renders it unconstitutional. We cannot decide so intricate a question as that, though it appears to us that the Pope stands in the same relation that contractor Onderdonk or any other foreigner would occupy with respect to the payment of public funds. So far as our light goes we should oppose the disallowance of the Bill, though we reserve the right to hear and consider evidence on the point that the Bill is unconstitutional. The idea that Ontario and the rest of the Dominion will have to supply the money to pay the Jesuits should not have weight in the discussion."

I may quote from another organ of hon. gentlemen opposite, the *Bellefleur Ontario*, of the 19th of March, which gives the *Globe* a certificate of character:

"The vacillating policy of the *Toronto Globe* of late years on almost every public question is without precedent in Canadian journalism. Its latest somersault on the Jesuit Bill is enough to restore the founder of this ever-powerful paper to life again. The *Globe's* flop over has caused a feeling among the Liberals at Ottawa little short of disgust for the men who at present are responsible for its policy, if such it can be called."

Now, Sir, I propose briefly to show—and this is a point my hon. friend has avoided—the feeling in the Province of Quebec on this important question; because, while I appreciate the effort of my hon. friend to defend the rights of the people of Ontario, I think also he might have had something to say with regard to the opinion of the minority in the Province of Quebec. We heard nothing from the hon. gentleman concerning the Bill of 1887. He steadily avoided that question, and confined his argument wholly to the Bill now under consideration. We are here to-day for the purpose of considering whether or not this Bill should be allowed or disallowed; but behind that question is another one. Should the Bill of 1887, incorporating this society, have been allowed or disallowed? The hon. gentleman said nothing about that. No one has spoken about it in Parliament or

out of Parliament. It was allowed to pass, and thus we recognised, in not disallowing that measure, the right of the Province of Quebec to incorporate the Jesuits. Having done so, the question arises, is it just and right to go further, and supplement that measure by giving money to this order? What is the opinion of the people of the Province of Quebec on that subject? I can appeal to the leader of the Third party for his views. I find throughout the whole of this controversy on this question, that the newspaper controlled by my hon. friend (Mr. Mitchell), supported the Mercier Government. Although he pointed out that such an Act was inexpedient, he always took the ground that the Bill was a fair one in the interests of the country.

Mr. MITCHELL. That is good authority.

Mr. RYKERT. Very good, but I want to give a better one.

Mr. MITCHELL. Question.

Mr. RYKERT. I will give the authority of the *Montreal Gazette*, which I look upon as a good authority, expressing the opinion of the English-speaking people of the Province of Quebec very fairly. The *Gazette* has had several editorials on the question, from one of which I propose to quote a few observations, in order to satisfy, at any rate, the people of the Province of Ontario, that while they are so exercised about the rights of the minority in Quebec, the minority in that Province, which is well able to take care of itself, has taken no exception to the legislation passed:

"Excepting the *Huntingdon Gleaner*, we are not aware that any newspaper in this or any other Province of the Dominion interested itself in the matter. The Protestant Committee of the Council of Public Instruction silently acquiesced on securing its sixty thousand dollars. There was a slight ruffle as to how to apply the money, but that was all. The Protestant members of the Legislature did not take the trouble to divide the House upon it; the leading spirits of Mr. Mercier's Protestant following thought it a very reasonable measure, and not one word of dissent was heard from anybody, clerical or otherwise. The Bill in its various stages appeared in the telegraphic summaries of the newspapers of the Dominion, with no more emphasis than any bill to incorporate a trading company."

So that you see while this matter was being discussed in the Quebec Legislature, and while the people were made aware of what was going on from day to day, and the minority of Quebec had every opportunity of expressing their dissent and making known their opposition, if there was anything wrong in the Bill, no exception was taken by them either on constitutional grounds or on grounds of public policy. The *Gazette* goes on further to say that:

"They felt that the true claimant for this property was the Roman Catholic Church in general, and that church was represented by its ecclesiastical head, and not by a recently incorporated body of ecclesiastics governed by a foreign general, no matter how estimable they might be."

I commend this to the attention of the hon. member for Muskoka (Mr. O'Brien):

"Now, in the face of these threats of extra provincial intervention, Roman Catholics, no matter what they think, must, in self-respect, close their ranks."

That is the opinion of a Protestant paper in the Province of Quebec.—

"If there be one principle clear in a Parliamentary Government, it is the right of the representatives of the people to dispose of the money of the people. It is one of these self-evident principles which, if men's minds were not heated by religious and political passion, no one would dream of disputing."

But there is another authority which I will cite, because I find that persons belonging to the same church are trying to foment discord and religious disturbance in Ontario on this question. I will cite the opinion of the Rev. Dr. Campbell, of the city of Montreal, Presbyterian clergyman, who discussed the question in all its merits. In a letter published some time ago he says:

"That is reason sufficient why we in Canada, Protestants and Roman Catholics alike, should be very slow to afford them any encouragement in our country. But we failed—we who should have vigorously protested against their establishment and endowment—to make our voices heard at the moment when our views might have influenced the situation. The Protestant representatives in the House of Assembly did not oppose the two measures as stoutly as they ought to have done, and the people failed to petition the Legislature against the Bills. Not having availed themselves of their constitutional rights while the measures were under discussion, they virtually put themselves out of court. It is not fair either to the local authorities or to those at Ottawa for us now to make an outcry. Mr. Mercier was justified in concluding, while the Bills were before the Assembly, that there was no very strong sentiment against them in the Province, or else the Legislature would have been flooded with petitions against them, as it always is when there are proposals before it directly affecting the people's pockets. Nor have we any right to feel greatly disappointed that the Federal authorities did not put themselves in an embarrassing position to shield us from the consequences of our own neglect of our interests, when they could urge a constitutional plea to rid themselves of responsibility in the matter."

That is the opinion of a gentleman whose opinion is worth having, and who addressed a letter some time ago to the *Montreal Witness* in which he expresses those views. But let us look at what was done in the Legislature. We find that in the Legislature, when the matter was under discussion, different members spoke upon the question. We find that Hon. Mr. Lynch, a Protestant member, spoke, and I

have taken this extract from the paper to show that he who represented the interests of Protestants was fully alive to the importance of the question under discussion and expressed his opinion at the time :

"Notwithstanding what may be thought in some quarters, there is nothing in the Bill alarming in its character. We are living in an age where wisdom prevails, living in an age in which freedom is supposed to exist the world over, and nowhere in the dominions of Her Majesty does liberty prevail more than in the Province of Quebec. \* \* Is it possible that the intelligent public opinion of the Province of Quebec should deny those Jesuit Fathers the civil rights we have granted to every one else ? "

Then we have the opinion of several gentlemen in the Upper House. Among them, Mr. Starnes, who said :

"I approve of the Bill as it is, for that question should have been settled long ago. Protestants and Catholics ought to be satisfied with the manner in which the question is now settled."

The Hon. David Ross also said :

"Some newspapers have shown me up as the friend of the Jesuits and as a bad Protestant, because I lent my assistance to the settlement of this question. I will answer it by saying that I am neither a friend nor an enemy of the Jesuits. We had to deal with a question of justice, and I gave it my support. The Protestants themselves entertain the belief that the Jesuits deserve some compensation for the estates taken away from them. Moreover, the Protestants whom I represent in the Cabinet, are well satisfied with the settlement of this question, as you have heard the hon. councillor for Wellington express it, and with the indemnity which falls to their lot."

So that you will see Protestant public opinion to-day in Quebec is strongly in favor of the Bill and the settlement made, and against disallowance. I am glad to see also that while the Orange body has seen fit to pass resolutions as a body in favor of disallowance, there are some Lodges in the Province which have had the courage of their convictions, which have stated the question broadly and have not seen fit to endorse the action of the Grand Lodge. I find at a meeting of L.O.L. 152, Dorchester township, a strong resolution was passed condemning the Quebec Government for passing the Jesuits' Estates Bill, and expressing the opinion that a number of the Orange lodges had acted unwisely in condemning the Dominion Government for not disallowing the measure, as they firmly believed that if an injustice had been done, redress would be better secured by the various Protestant denominations taking united action in pressing the claims of the Protestant body. The resolution goes on further to express the hope that that course will be followed, so that the legal opinion may be tested. As I said a few minutes ago, an effort has been made to fire the public mind in the Province of Ontario by calling on the people to form organisations with a view of putting

down the Roman Catholic religion in that Province and also throughout this country. We find that Mr. Hughes has taken a very active part in this matter. I mention him because, day after day, his name is cited as an authority on the subject, and only last night I find it reported that he addressed a meeting in the Pavilion in Toronto upon this important question. But, after reciting, as my hon. friend from Muskoka (Mr. O'Brien) has done, all the misdeeds of the Jesuits, he winds up by asking the people of this country to establish an organisation similar to one existing in Scotland, and proposes the following as the objects:—

"The objects of the Alliance are:—(a) The defence of our common Christianity; (b) the exposure of the errors of Popery and infidelity; (c) the instruction of Roman Catholics in Bible truth; and (d) the maintenance and promotion of the great Scriptural principles of the Scottish Reformation.

"The membership of the Alliance is composed of persons of all the Protestant denominations, and various political opinions, who are thoroughly agreed that the Papacy is an enemy to national and social prosperity, and to personal freedom, and who are resolved to resist the aggressions in the Empire by every possible means."

So you will see that the sum and substance of the arguments of those people in the Province of Ontario is, first, to inflame the public mind by reciting historical reminiscences, and then to arouse a certain feeling in favor of the Protestant religion. I find, also, that the Rev. Mr. Ross says:

"The Church of Rome in the Province of Quebec is established and endowed in violation of the said principle. We hereby request the Dominion Government to take steps to secure the revision of the British North America Act, so as to lead to the disestablishment and disendowment of said church in said Province."

It is thus evident that nearly all these gentlemen run in the same direction. I am glad, however, to find that, conspicuous among many people in the Province of Ontario, are men of larger minds, men such as the Rev. Principal Grant, who has expressed himself on several occasions in regard to this matter, and has published a letter in the public press which I will do him the justice of quoting. He is as much interested in the welfare of Protestantism as anyone in the Province of Ontario, and he has seen fit to discuss this question on its merits and to publish his views in the press. He says:

"If the matter was to be settled at all, and before giving an opinion on that point, let us remember that the great majority of the people of Quebec are Roman Catholics. I do not see what else Mr. Mercier could have done than require the sanction of the Pope to the bargain. It may seem astonishing to Protestants that Roman Catholics should acknowledge a man living in Rome as the head of their church. But they do. Protestants must accept that fact in the same spirit in which all facts should be accepted."

So it is clear that he has not the same dread of the Pope exercising his clerical powers, as far as this Act is concerned, as some gentlemen have. He goes on:

"The grant of money to the Jesuits. But the money was not awarded, and has not been given to the Jesuits. It has been given to the Roman Catholic Church. Doubtless the Jesuits will get some of it. Mr. Mercier, in his speech, quotes a letter, dated 11th October, 1884, from the Secretary of the Propaganda to the General of the Jesuits, promising on the part of the Pope that when the matter was settled they would get a share, the proportion to be subsequently determined."

The House will thus see that there are persons who regard this question from a different standpoint; as also, in this city of Ottawa, the Rev. Mr. Herridge, speaking on the question, stated that it was purely a question of money, and that he could see no reason why there should be any interference on the part of the Government with a Bill which was not, in his opinion, detrimental to the interests of the country or to the policy of the country. The fact is that the people are not thoroughly informed on this question, and in the papers from day to day the historical references are not correct. In fact, they are just as incorrect as some of those which my hon. friend (Mr. O'Brien) made to-day, as I shall point out later. The Ministerial Association in Toronto is composed of a number of men of all denominations, and they could not find out whether the Jesuit Order had ever been suppressed in this country or not, and, after searching for a week, they could not come to a conclusion. And yet these are the men who pretend to guide public opinion. I deny their right to do so, or I say, at all events, that, before they do so, they should first inform themselves as to the facts. Then I find that a resolution was moved by Dr. McVicar and seconded by Dr. Campbell, and what is asked by that resolution is to have a certified copy of the Bill sent to the Queen, and then they say she will disallow it. Why, they do not seem to understand the constitution of this country, when they think that an Act of the Province of Quebec can be sent to the Queen for disallowance, whereas it is only the Acts of this Parliament which are subject to disallowance by the Queen. They are in absolute ignorance of the provisions of the British North America Act. Now, I do not intend to defend the Jesuits, but I am going to quote a few authorities to show that, in this country, at all events, they are not as bad as my hon. friend (Mr. O'Brien) makes them out to be. In his speech, he said he did not propose to discuss the course of the Jesuits in this country, but only to refer to their misdeeds in the past. I will quote from one or two articles on that subject, because it is just as well to understand what Protestants

think in regard to the Jesuits. As I said, I do not pretend to make any elaborate argument on the subject, or to defend the Jesuits or their acts, but I find that public men in this country, persons who have written on this question here and in England, are of one accord that the Jesuits of to-day are not the Jesuits of 100 years ago. That is where my hon. friend goes astray. He refers to their intriguing in Europe, and to their determination to upset every State in Europe, and to various acts of theirs which will not commend themselves to anyone; but he should have also referred to those authorities who took an entirely different view of the subject. In Parkman's work I find this testimony given to the Jesuits:

"The lives of these early Canadian Jesuits attest the earnestness of their faith and the intensity of their zeal; but it was a zeal bridled, curbed, and ruled by a guiding hand. Their marvellous training in equal measure kindled enthusiasm and controlled it, roused into action a mighty power, and made it as subservient as those great material forces which modern science has learned to awaken and to govern. They were drilled to a factitious humility, prone to find utterance in expressions of self-depreciation and self-scorn, which one may often judge unwisely when he condemns them as insincere. They were devoted believers, not only in the fundamental dogmas of Rome, but in those lesser matters of faith which heresy Gaspsises as idle and puerile superstitions. One great aim engrossed their lives. For the greater glory of God they would act or wait, dare, suffer or die, yet all in unquestioning subjection to the authority of the Superiors, in whom they recognised the agents of divine authority itself."

Then I find that Macaulay—and I do not suppose many in this House will question his authority—in his "History of England," spoke of these men as follows:—

"No religious community could produce a list of men so variously distinguished; none had extended its operations over so vast a space; yet in none had there been such perfect unity of feeling and action. There was no region of the globe, no walk of speculative or active life in which Jesuits were not to be found. They guided the councils of Kings. They deciphered Latin inscriptions. They observed the motions of Jupiter's satellites. They published whole libraries, controversy, casuistry, history, treatises on optics, alcaic odes, editions of the fathers, madrigals, catechisms and lampoons. The liberal education of youth passed almost entirely into their hands, and was conducted by them with conspicuous ability. They appear to have discovered the precise point to which intellectual culture can be carried without the risk of intellectual emancipation. Enmity itself was compelled to own that, in the art of managing and forming the tender mind, they had no equals."

That seems to be entirely in opposition to the views which have been expressed by my hon. friend, and the various assertions as to their practices in the mother country. But we have an authority in this country which I think will also be received in this House. I refer not to the organ of the Third party, but to the *Montreal Gazette*,

which, on the 25th June last, speaking of the Jesuits, and knowing well what they are in the Province of Quebec, says:

"There is probably no country in the world in which the Society of Jesus has enjoyed so fair a reputation and so large a share of goodwill from the people generally, without distinction of creed, as have fallen to their lot in Canada. Their piety, humanity and courage are associated with the most heroic and romantic periods in our annals. 'The story of their trials and triumphs on this continent, and especially within the limits of our own land, is one of the most interesting and instructive in the records of missionary labor.' If we except certain works and ambitions which marked some passages in their career, the members of the order in Canada have never forfeited that respect which is due to the faithful prosecution of noble aims."

So you see that we have testimony from the Province of Quebec that at least they have some friends in this country, and that they are not looked upon in the same light as they were in the mother country and on the continent. Now, Sir, one of the arguments of my hon. friend was that the Jesuits are hostile to the Roman Catholic Church. Well, I have read different sermons, that of Father Hand in Toronto and Father Whelan in Ottawa, and I find that they take the view that the Jesuits are in accord with the Church of Rome, as is evidenced by the telegram sent some time ago to Mr. Mercier. He read this telegram at Laprairie, on July 22, from Rome:

"You cannot be called a rebel against the Bishops of the Province of Quebec for having incorporated the Society of Jesus, when the Holy Father allowed its members to seek incorporation."

So you see that is evidence that they are entirely in accord with the Church of Rome, and are not in the same position as they were in 1773 when they were suppressed by the Pope. But there is another evidence which my hon. friend did not refer to. When they were restored in 1814 we find in the Pope's Bull that he does not refer to them in the same terms as my hon. friend. There we read:

"The Catholic world unanimously demands the restoration of the Society of Jesus. We daily receive the most earnest petitions to this effect from our venerable brethren the Archbishops and Bishops, and from other earnest persons."

This shows conclusively that they are in accord with the Roman Catholic Church, they are subservient to it, they are delegates of that Church in missionary works. Now, my hon. friend, in speaking of the Jesuits in England, has not told all that he might have told. It is true that by the Act of Supremacy, (1 Elizabeth) pains and penalties were placed upon them, but it might be a question whether that Act then applied to this country when it was not a portion of the British Empire. But that is set at rest by the Quebec Act of 1774. The next we hear of the Jesuits



in England is the Act 10, George IV, to which my hon. friend did not refer. That Act was passed for the purpose of suppressing them gradually. I will presently show how they have been suppressed in England, and whether they are considered in England to be as obnoxious as my hon. friend represents. That Act is entitled an Act for the relief of His Majesty's Roman Catholic subjects, and was passed on the 13th of April, 1829. The statute says:

"Whereas by various Acts of Parliament certain restraints and disabilities are imposed on the Roman Catholic subjects of His Majesty, to which other subjects of His Majesty are not liable; and whereas it is expedient that such restraints and disabilities shall be from henceforth discontinued;

"And whereas Jesuits and members of other religious orders, communities, or societies of the Church of Rome, bound by monastic or religious vows, are resident within the United Kingdom, and it is expedient to make provision for the gradual suppression and final prohibition of the same therein; be it therefore enacted."

Now, mark you, Mr. Speaker, at that very time, long after the passage of the Quebec Act, we find an English Parliament declaring that it was wise to pass an Act for their gradual suppression. It goes on to say:

"That every Jesuit and every member of any other religious order, community, or society of the Church of Rome, bound by monastic or religious vows, who, at the time of the commencement of this Act, shall be within the United Kingdom, shall, within six calendar months after the commencement of this Act, deliver to the Clerk of the Peace of the county or place where such person shall reside, or to his deputy, a notice or statement in the form, and containing the particulars required to be set forth in the schedule to this Act annexed;

"And be it further enacted: That if any Jesuit or member of any such religious order, community, or society as aforesaid, shall, after the commencement of this Act, come into this realm, he shall be deemed and taken to be guilty of misdemeanor, and, being there lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life.

"Provided always, and be it further enacted: That in case any natural-born subject of this realm, being at the time of the commencement of this Act, a Jesuit, or other member of such religious order, community, or society as aforesaid, shall, after the commencement of this Act, be out of the realm, it shall be lawful for such person to return or come into this realm; and upon such his return or coming into the realm he is hereby required, within the space of six calendar months after his first returning or coming into the United Kingdom, to deliver such notice or statement to the Clerk of the Peace of the county or place where he shall reside;

"Provided also, and be it further enacted: That, notwithstanding anything hereinbefore contained, it shall be lawful for any one of His Majesty's principal Secretaries of State, being a Protestant, by a license in writing, signed by him, to grant permission to any Jesuit, or member of any such religious order, community, or society, as aforesaid, to come into the United Kingdom and to remain therein for such period as the said Secretary of State shall think proper, not exceeding in any case the space of six calendar months."

Now, Sir, that Act was passed to show that there was a desire on the part of the English Government to suppress the Jesuits. At this very time there were hundreds of Jesuits in England, and surely the English Parliament is as desirous of protecting the great Protestant religion, surely the Archbishop of Canterbury and the other Bishops of the Church of England are as desirous as my hon. friend, to protect the Protestant religion; and if the Jesuits are as obnoxious as they were a hundred years ago, if their precepts and doctrines are as antagonistic to the best interests of the country as my hon. friend pretends, surely the English Government would say: We will put an end to them, and drive them out of the country. Now, Sir, what do we find? We find that a notorious gentleman who has figured in English parliamentary life, Mr. Whalley, in 1875, in the English House of Commons, brought up the question of suppression of the Jesuits. After they had been barely fifty years in the mother country, after a penal clause had been passed making it a crime for them to remain in the country more than six months, this gentleman declared, on the floor of Parliament, that the Jesuits had increased in number from 447 to 1,967. He called upon the English Parliament to drive them out of the country. And what did members say? They counted out the House, they laughed at him, and they left him there making a speech upon this question. Then, in order not to be outwitted, he placed a notice in the paper asking Mr. Disraeli, at that time at the head of the Government, what he intended to do? Mr. Disraeli said:

"There is no doubt that there are in this country members of the Society of Jesus, commonly called Jesuits, and there is also no doubt that their presence in this country is, under 10 Geo. IV., known as the Roman Catholic Emancipation Act, a misdemeanor. During, however, the period which has elapsed since the passing of that Act, now nearly half a century, the Government of this country has, I believe, in no instance—none, at least, known to myself—proceeded against any Jesuit for committing a misdemeanor under its provisions, and, so far as Her Majesty's present advisers are influenced by the circumstances with which they are acquainted, the same policy will continue to prevail. At the same time, I beg it to be understood that the provisions of the Act are not looked upon by Her Majesty's Government as being obsolete, but, on the contrary, as reserved provisions of law which they are prepared to avail themselves of if necessary."

Now, that does not look like the English people being opposed to the Jesuits; it does not look as if they were undermining the State and the Protestant religion in England; on the contrary, they are performing a good work, and they are not the mischievous people that my hon. friend says they are now. But Mr. Whalley was not going to be out-

generalled again. He moved again on July 13, 1875, a motion for a committee, as follows :—

" To enquire into and report to this House as to the residence in this country, in contravention of the Act 10 Geo. IV, of any persons being members of the Order of Jesus, commonly called Jesuits, and as to the names, present residence, and ostensible occupation of such persons ; also, as to the amount and nature of any property vested in, or at the disposal of such persons for the purpose of promoting the objects of such society or order, and, so far as may be practicable, to enquire into and report as to the doctrine, discipline, canons, laws or usages under which such order is constituted, and by which it is directed and controlled."

What was the result of that motion ? It was that he could not get a seconder for it. After making a speech and showing that the number of priests had increased from 447 in 1829 to 1,967 in 1875—these are exactly the figures he used at that time—notwithstanding the violent speech he made on that occasion, the people of England said : We have no fear of the Jesuits. To-day I venture to assert that if anyone will consult history, will look at the Order in England, will visit their colleges at Stonyhurst and other places, they will find evidence of the fact that the greatest men to-day have been educated there, including Protestants, and men who are as strong in their Protestant faith as is the hon. member for Muskoka (Mr. O'Brien). That is all I intend to say with respect to the Jesuits of England. I do not justify the acts of the Jesuits, but I do say that the men to-day are not the men of 100 years ago, that they do not possess the same feelings and intentions in regard to destruction of British power as they did in those days. To-day you will find those men are desirous of pursuing their holy work without the interference of politicians. The hon. gentleman has referred to the history of Canada. He has not, however, placed altogether a proper construction on the Act of 1774, 14 George III, c. 83. The hon. gentleman read section 5, but he might also have read section 8. Section 5, as stated by the hon. gentleman, goes on to say :

" Sec. 5. And for the more perfect security and ease of the minds of the inhabitants of the said Province, it is hereby declared that His Majesty's subjects, preferring the religion of the Church of Rome, of and in the said Province of Quebec, may have, hold and enjoy the full exercise of the religion of the Church of Rome, subject to the King's supremacy declared and established by an Act made in the 1st year of the reign of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong to the Imperial Crown of the realm ; and that the clergy of the said church may hold, receive and enjoy the accustomed dues and rights, with respect to such persons only as shall profess the said religion."

Even taking that language as it stands, it appears that the Roman Catholics have a right to carry on their church affairs in the same manner as they had hitherto done, so long as they did nothing contrary to the laws of England. But section 8 goes on to say :

"Sec. 8 That His Majesty's Canadian subjects, within the Province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other civil rights, in as large, ample and beneficial manner as if the said proclamation had not been made and as may consist with their allegiance to His Majesty."

So while the Imperial Government would not recognise the supremacy of the Pope in England, yet at the same time they gave the Roman Catholics power to carry on the affairs of the church so long as they did not conflict with the laws of England. The hon. gentleman has referred to the petition of Lord Amherst. I am glad he has referred to that petition, because I think if the hon. gentleman had read the whole history of the question, and read the opinions of the law officers of the Crown, he would have come to the conclusion that the Government were right in passing the law giving an annuity instead of land, because the officers of the Crown were not quite certain in regard to the title. It is true that Lord Amherst in 1770, after having performed signal services for England, petitioned the King to have the Jesuits' Estates transferred to him. The petition was referred to the Committee of the Lords of the Privy Council; they reported in favor of it, and it was referred to Lords Gray and Williams, who reported on May 18, 1790. If anyone will take the trouble to follow their report, he will see that, in their opinion, the subject was surrounded with grave doubts. It discussed the whole question in regard to the tenure of the Jesuits, it discussed the whole question as to where the land came from, and under what power the Jesuits held it; and we have the fact that at the close of their labors the commissioners appointed to investigate the title stood 6 to 2 on the question. But they recommended the Government to take possession of the land. The Government did so. In 1800 they took possession of the land in this country, they placed the sheriff in possession of it, but they would not give it to Lord Amherst's heirs, and they passed an Act in 1803 giving an annuity of £3,900 sterling a year instead of the lands asked for, which the law officers of the Crown recommended should be granted. If hon. members will look at the recital of the Act, they will observe that the words are very significant, and those words are such as to justify me in stating that the law officers of the Crown were not distinctly in favor of the validity of the Crown's title, but had

grave doubts in regard to it. The recital goes on to say that:

"In consequence of difficulties arising from local circumstances His Majesty's intentions were not carried into effect."

So hon. gentlemen will see that while these lands were requested to be granted to Lord Amherst, yet when the subject was discussed by the law officers of the Crown such grave doubts surrounded the question that the Government would not grant the lands but granted a money allowance. The next we hear of the Jesuits was on the 17th September, 1791, when they were suppressed in Canada under Royal instructions. Those instructions we find in the Chisholm Papers, page 252. In 1791 we find these instructions:

"It is our will and pleasure—that the Society of Jesuits be suppressed and dissolved, and no longer continued as a body corporate or politic, and all their possessions and property shall be vested in us for such purposes as we may hereafter think fit to direct and appoint; but we think fit to declare our Royal intention to be that the present members of the said society as established at Quebec shall be allowed sufficient stipends and provisions during their natural lives."

But we have the very significant fact that after that proclamation was issued in 1791, they remained in possession of the estates ten or eleven years, during which they had control over them. We find in the report of the Attorney General and Solicitor-General of England they referred to the fact that Lord Haldimand allowed the Jesuits to remain in possession of the lands for that period. I am not surprised that Mr. Mercier said they had a moral claim, because they appear to have a moral, if not a legal, claim to the estates. Lord Goderich, in a despatch in 1831, sent to the Legislature in that year this question for their disposition. He says:

"The only practical question which remains for consideration is, whether the appropriation of these funds for the purpose of education should be directed by His Majesty or by the Provincial Legislature?"

"The King cheerfully, and without reserve, confides that duty to the Legislature, in the full persuasion that they will make such a selection amongst the different plans for this purpose which may be presented to their notice, as may most effectually advance the interests of religion and sound learning amongst his subjects; and I cannot doubt that the Assembly will see the justice of continuing to maintain under the new distribution of these funds those scholastic establishments to which they are now applied."

We find following that, the Act 2nd William IV, cap 41, goes on to say:

"An Act to make provision for the appropriation of certain moneys arising out of the Estates of the late Order of Jesuits, and for other purposes."

"Reciting that His Majesty had been graciously pleased to confide without reserve to the Provincial Legislature the apportioning of the funds arising from the Estates of the late Order of Jesuits to the purposes of education exclusively. Enacted that all moneys arising out of the Estates of the late Order of Jesuits shall be placed in a separate chest in the vault wherein the public moneys of the Province are kept, and shall be applied to the purpose of education exclusively, in the manner provided by this Act, or by any Act or Acts which may hereafter be passed by the Provincial Legislature in that behalf, and not otherwise."

If my hon. friend will only consult this Act he will find that it was given exclusively to the Province of Quebec for educational purposes. Subsequent to this we find, and that my hon. friend has also admitted, that the incorporation of St. Mary's College was passed in 1852 by the old Parliament of Canada and that the Jesuit College which this Act incorporated still remains in existence, and is still doing its good work throughout the country, and no fault has been found with it. In 1856 we find that the Act 14-15 Victoria, chapter 54, says:

"1. The estates and property of the late Order of Jesuits whether in possession or reversion, including all sums funded or invested, is to be funded and invested as forming part thereof, and the principal of all moneys which have arisen or shall arise from the sale or commutation of any part of said estate or property, are hereby appropriated to the purpose of this Act, and shall form a fund to be called 'The Lower Canada Superior Education Investment Fund' and shall be under the control and management of the Governor in Council for the purposes of this Act."

"Apportionment of fund among universities, colleges, seminaries, academies, high and superior schools, and as the Governor in Council shall approve."

So that my hon. friend will see that it would be utterly impossible to claim a portion for the Province of Ontario, because this Parliament has declared that the fund should be known as the "Lower Canada Superior Education Investment Fund." Section 5 of that Act says that the apportionment of the fund shall be amongst "universities, colleges, seminaries, academies, high and superior schools, and as the Governor in Council shall approve." But my hon. friend says they have no power to vote the money for ecclesiastical institutions. In this he would appear to be at variance with the *Law Times* and *Law Journal*. Now, Mr. Speaker, I have dealt thus far with the history of the question of the Jesuits, and pointed out to this House the different Acts bearing on the question in England and also in Canada. I wish now to turn my attention to another branch of the subject, and to see in what position we stand when we ask the Government to disallow this Bill. I hold that we have established a constitutional practice in this country, and that the records of Parliament are full of this

practice. We have Mr. Todd and other eminent authorities writing on this subject, and I shall briefly allude to them in order that the people of the country may know, as we know in this House, that we have rules and constitutional government by which this Act must be construed, and by which this House must decide whether or not the Government was right or wrong in the course it pursued. At page 358, Todd says:

"The redress of grievances arising out of the operation of provincial laws, can only be constitutionally afforded by the Provincial Legislature by which such laws have been enacted: except in cases wherein the Acts complained of have been unlawfully passed, or are open to objection upon grounds that would justify the interference of the Governor General in Council, or the Dominion Parliament, with the law."

And at page 359 he continues:

"But in all such cases (appeals by petition to the Queen, &c.) the principle is affirmed that no interposition to the detriment, in any degree, of the established principle of self-government, in matters of local concern, would be permitted or approved, whether on the part of the Imperial or Dominion Government, in their several and appropriate spheres of action, or matters within the acknowledged competency of either tribunal."

You will see that Todd lays down the very sound principle that all matters of provincial concerns come within the jurisdiction of the Legislature and shall not be controlled by this Parliament. Again at page 343 Todd says:

"The British North America Act recognises and guarantees to every Province in the Confederation the right of local self-government, in all cases within the competency of the provincial authorities, and it does not contemplate or justify any interference with the exclusive powers which it entrusts to the Legislatures of the several Provinces; except in regard to Acts which transcend the lawful bounds of provincial jurisdiction or which assert a principle, or prefer a claim that might injuriously affect the interests of any other portions of the Dominion, as in the case of Acts which diminish rights of minorities in the particular Province in relation to education, that has been conferred by law in any Province prior to Confederation."

Now, I think the member for Muskoka (Mr. O'Brien) has failed to point out that this Act asserts a principle in violation of the interest of the Dominion, or which affects the rights of the minority within the particular Provinces, because if we understand aright the minority of the Province of Quebec, who thoroughly understand their position and who thoroughly understand what the law was, are themselves prepared to accept at the hands of the Local Government the sum of \$60,000 as full and just compensation to them for the amounts they were entitled to for their superior education fund, and that while we are so anxious to protect the minority in the Province of Quebec that minority, knowing more than we do, are perfectly satisfied. Todd again says:

"It was manifest that it was the intention of the Imperial Parliament to guard from invasion all rights and powers exclusively conferred upon the provincial authorities, and to provide that the reserved right of interference therewith by the Dominion Executive or Parliament should not be exercised in the interest of any political party or so as to impair the principle of local self-government."

And at page 363 in his work, he continues:

"It has been sometimes worked in repeal of Acts which contained provisions that were deemed to be contrary to sound principle of legislation, and, therefore, likely to prove injurious to the interests or welfare of the Dominion."

You will, therefore, find we have high constitutional authorities on this subject, and authorities which satisfy me that the Government were perfectly right in acting as it has done. We have also the opinions of eminent judges in this country, and my hon. friend has pointed out to judicial authorities in England, in support of his argument. I think that we should quote some of our own eminent authorities, in order to guide the House to a just conclusion on this matter. In the case of *Severn* against the Queen, *Supreme Court Reports*, volume 2, page 96, Chief Justice Richards says:

"Under our system of Government, the disallowing of statutes passed by a Local Legislature after due deliberation, asserting a right to exercise powers which they claim to possess under the British North America Act will always be considered a harsh exercise of power unless in cases of great and manifest necessity, or where the Act is so clearly beyond the power of the Legislature that the propriety of interfering could be at once recognised."

And Justice Taschereau said:

"There is no doubt of the prerogative right of the Crown to veto any Provincial Act, and that could even be applied to a law over which the Provincial Legislature had complete jurisdiction. But it is precisely on account of its extraordinary and exceptional character that the exercise of this prerogative will always be a delicate matter. It will be always very difficult for the Federal Government to substitute its opinion instead of the Legislative Assembly, in regard to matters within those Provinces, without exposing themselves to be reproached with checking the independence of Parliament in the Provinces. What would be the result if the Province chose to re-enact a law which had been disallowed? The cure might be worse than the disease and fully as grave complications might follow."

"It cannot, therefore, be argued that, because this right exists, we must adopt an interpretation which could lead to the necessity by having recourse by it."

Now, Mr. Speaker, that points out the fact that while this Government has the power to disallow Acts which are strictly within the power of the Local Legislature, yet that very judge declares that it is inexpedient and impolitic in this Government to set its opinion against that of the Local Legislature, because if it did so the Legislature would turn around and re-enact the Bill, and the result



would be a conflict between the Provincial Government and the General Government, which all must deplore. We have also certain principles laid down by the right hon. leader of the Government, whom I look upon as a very high constitutional authority, and I think both this House and the country recognise him as such. At any rate, we know that the rules laid down by him in the year 1868 for the guidance of the Government on such questions, have been approved of by Mr. Mowat, the Premier of Ontario, a high legal authority, by the learned gentleman who sits opposite, the hon. member for West Durham (Mr. Blake), by the hon. member for East York (Mr. Mackenzie), and by other hon. gentlemen in this House. Those rules were as follows:—

"In deciding whether any Act of a Provincial Legislature should be disallowed, or sanctioned, the Government must not only consider whether it affects the interest of the whole Dominion or not, but also whether it be unconstitutional; whether it exceeds the jurisdiction conferred on the Local Legislature, and, in cases where the jurisdiction is concurrent whether it clashes with the legislation of the General Parliament."

"As it is of importance that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with as great caution, and only in cases where the law of general interests of the Dominion imperatively demand it, the undersigned recommends that the following course be pursued:—

"That on the receipt by Your Excellency of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he with all convenient speed, do report as to those Acts which he considers free from objection of any kind, and if such report be approved by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

"That he make a separate report, or separate reports, on those Acts which he may consider—

"1. As being altogether illegal or unconstitutional.

"2. As illegal or unconstitutional in part.

"3. In cases of concurrent jurisdiction as clashing with the legislation of the General Parliament

"4. As affecting the interests of the Dominion generally. And that in such report or reports he gives his reasons for his opinions."

These rules have been endorsed by all legal gentlemen in this House, and I think no person can deny that they embody the true and correct principle. We also find, by the Sessional Papers of 1877, page 102, that the hon. member for West Durham recommended that the question as to *ultra vires*, with reference to the Escheats Bill, should be referred to the Supreme Court. Again, in 1876, the hon. gentleman, in regard to an Act respecting the Legislative Assembly, said:

"It appears to the undersigned that several of the provisions are open to very serious questions as being *ultra vires* of a Local Legislature, but almost all of them are contained in an Act of the Legislature of

Quebec, upon the same subject which was left in its operation. There are indeed some new provisions, but it could not be advisable upon the principle upon which the Quebec Act was allowed to advise the disallowance of the Act by reason of the insertion of these provisions, and the undersigned feels bound to recommend, that following the precedent referred to, the Act should be left in its operation; it being quite possible for those who may object to its constitutionality to raise their objections in the courts."

There we have two of the highest legal authorities in this country, as high almost as can be found in any country, the hon. First Minister and the hon. member for West Durham, laying down the principle that upon the question of the constitutionality of an Act the decision of the courts ought to be invoked. We find the *Mail* of 5th February endorsing that view in the following words:—

"There is nothing in the British North America Act to limit the exercise of the veto power. That it shall not be exercised merely on grounds of ordinary policy, unless the Provincial Legislature has exceeded its jurisdiction, is a good general rule, which once more we commend the Government for observing. The authority given to the Provincial Legislature in certain classes of subjects, carries with it, like all authority, a liberty of error which must be respected, so long as the legal power is not exceeded and the error is not manifestly subversive legally or morally of the principle of the constitution or of the great objects of the State."

I have pointed out that the *Mail* in a former article contended that this Act was *ultra vires*, and, therefore, the courts should be invoked to decide upon its constitutionality; and we have affirmed that principle in this House over and over again. It was affirmed in regard to the Streams Bill, the consensus of opinion being that in regard to legislation which was claimed to be unconstitutional, the proper course for the Government to adopt was to let the measure go into operation, and leave those affected by it to contest its constitutionality before the courts. I commend to this House the opinion expressed by the hon. member for West Durham upon that question, and I think hon. gentlemen opposite will hardly dissent from it. It is a proposition which, I think, was well conceived, and which, though perhaps not accepted by the House at the time, was in entire accord with the views laid down in 1868 by the right hon. leader of the Government. The hon. member for West Durham said:

"Can any member of this House, who is a real, live lover of the Federal system, find any possible objection to this proposition? Where the law and the general interests of the Dominion imperatively demand it, then and then only shall the power of disallowance be exercised; but it would impair the Federal principle and injuriously affect the autonomy of the institutions of our several Provinces were this power to be exercised on subjects which are within the exclusive control of the Local Legislatures, on the ground that in the opinion of His Excel-

lency's advisers, or of the Canadian Parliament, any such legislation is wrong. \* \* I admit that, under the constitution of Canada and the Provinces, the Local Legislatures have the power to deprive the subject of his property under these conditions, but I say that if we import into the Constitution of the Confederation a restriction upon that power and declare it, as a majority in this House propose this night to declare, we will declare it to be the right and duty of the Government, whenever the power is to be exercised, to nullify its exercise by disallowing such Acts."

On that occasion the Government declared that the Act should be disallowed, on the ground that it interfered with private rights; but the general principle laid down was that in all matters of unconstitutionality, the courts should be invoked and nobody else. We have also a case almost in point in this country, the case of the New Brunswick School Law. When that case arose, members of Parliament who were versed in constitutional law expressed opinions which would be entirely in accord with the action taken by the Government of the day. That school law was one to compel the Roman Catholics of New Brunswick to contribute to a system of education which they could not conscientiously avail themselves of. It was a law which affected a large class of the community, and which that class contended interfered with its rights. That Bill was allowed to go into operation, and was not interfered with by the Dominion Government for reasons given by the First Minister, who says:

"The Provincial Legislature has exclusive powers to make laws in relation to education. It may be that the Act in question may act unfavorably on the Catholics or other religious denominations, and if so it is for such religious bodies to appeal to the Provincial Legislature which has the sole power to grant redress.

"The assumption by the Provincial Legislature and Government of Canada of the right to seek the imposition of further limitations of the powers of the Provincial Parliaments is subversive of the Federal character of the Union, tending to the destruction of the powers and independence of the provincial law to the centralisation of all power in the Parliament of Canada.

"The people of New Brunswick cannot, and will not, surrender their rights of self-government within the limits of the constitution."

He went on further to say:

"In the case of measures not coming within either of these categories the Government would be unwarranted in interfering with local legislation.

"In the present case there was not a doubt that the New Brunswick Legislature had acted within its jurisdiction, and that the Act was constitutionally legal and could not be impugned on that ground.

"On the second ground which he had mentioned in which he considered the Dominion Government could interfere, it could not be held that the Act in any way prejudicially affected the whole Dominion, because it was a law settling the Common School system of the Province of New Brunswick alone.

"The Government of the Dominion could not act and they would have been guilty of a violent breach of the constitution if, because they

hold a different opinion, they should set up their judgments against the solemn decision of a Province in a manner entirely within the control of that Province."

There is the decision of the First Minister, entirely in accord with that of Mr. Justice Taschereau. Judge Taschereau adopts almost the very language of the First Minister in the case I have referred to, the *Queen vs. Severn*. It seems to me that, that case is on all fours with the case before the House. The hon. the Minister of Inland Revenue (Mr. Costigan) moved the following resolution in this House in 1872:—

"That the Local Legislature of New Brunswick in its last Session, in 1871, adopted a law respecting Common Schools forbidding of any religious education to pupils, and that that prohibition is opposed to the sentiments of the entire population of the Dominion in general and to the religious convictions of the Roman Catholic population in particular;—That the Roman Catholics of New Brunswick cannot, without acting unconscientiously, send their children to schools established under the law in question and are yet compelled like the remainder of the population, to pay taxes to be devoted to the maintenance of those schools;—That the said law is unjust, and causes much uneasiness among the Roman Catholic population in general disseminated throughout the whole Dominion of Canada, and that such a state of affairs may prove the cause of disastrous results to all the Confederate Provinces;—and praying His Excellency in consequence at the earliest possible period to disallow the said New Brunswick School Law;

In that debate the whole question was thoroughly discussed. The *Globe* thus commented on it:

"The question so far was exclusively a local one, and it would have been well if it could have been fought out and settled in New Brunswick, as it was in past years in Ontario and Quebec. But the Catholic minority determined to make an appeal to the Dominion Parliament, on the ground that by the Confederation Act they were secured in the rights which they allege have now been taken away."

The hon. member for West Durham (Mr. Blake) moved in amendment to that resolution of Mr. Costigan, declaring that it was expedient that the opinion of the law officers of the Crown should be taken:

"That this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick, as to remove any just grounds of discontent that now exist; and this House deems it expedient that the opinion of the law officers of the Crown in England, and, if possible, the opinion of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law, as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union in respect of religious education in the Common Schools with the view of ascertaining whether the case comes within the terms of the 4th sub-section of the 33rd clause of the British North America Act, 1867, which authorises the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act."

You see, therefore, the opinion of the hon. member for West Durham (Mr. Blake) was that it was not expedient for the House to pass censure upon the Government and disallow that Bill, but on the contrary left the decision with the officers of the Crown. On 29th November, 1872, the law officers of the Crown reported as follows :—

"That we agree substantially with the opinion of the Minister of Justice of the Dominion, so far as appears from the papers before us."

Sir J. D. Coleridge and Sir G. Jessell said of it :

"Of course, it is quite possible that the new Statute of the Province may work in practice unfavorably to this or that denomination therein, and therefore to the Roman Catholics; but we did not think that such a state of things is enough to bring into operation the restricting powers of appeal to the Governor in Council."

It seems to me that this New Brunswick case is much stronger than the one now before us. We had a minority in the Province of New Brunswick of Roman Catholics, who contended that the law passed was a great injustice to them. The First Minister said he recognised the injustice. The law officers of the Crown said the same thing when their opinion was taken in 1875, but they all agreed that the matter was of purely local concern. I would like to ask the hon. member for Muskoka (Mr. O'Brien) if the views of the Catholic minority in the Province of New Brunswick should not be respected as well as those of the Protestant minority in Quebec, which is entirely satisfied with the action of the Government. In New Brunswick the Catholics felt that their rights were unjustly dealt with, the Government law officers of the Crown were of the same opinion, and the Government here were of the same opinion, but in spite of all that, they all agreed that it was a matter of purely local concern, with which we had nothing to do.

It being Six o'clock, the Speaker left the Chair.

### After Recess.

Mr. RYKERT. When the House rose at six o'clock, I was endeavoring to show that in the question of the New Brunswick School Law, the Catholic minority in that Province, had made complaint, in reference to the legislation of that Province, that their rights had been seriously infringed upon. I endeavored to show that the Minister of Justice of that day, the right hon. the Premier of this country, had expressed his opinion upon that law, and had stated distinctly that while he sympathised with the Roman Catholics in that Province, yet that the action of the New Brunswick Legislature was entirely within its jurisdiction.

I quoted also the authority of several gentlemen, among them the hon. member for West Durham (Mr. Blake). I showed that he moved in amendment to have the matter referred to the law officers of the Crown and also expressed his opinion of the Act. I find that opinion reported in the *Globe* of May 19th, 1872:

"Mr. BLAKE said he had from time to time considered the constitution with reference to the state of the law in New Brunswick on the subject of schools, and he was free to confess that his opinion had fluctuated, and any expression he might now give was given with great doubt and hesitation. He was free to admit that there was much to support the view that had been put forward in the report of the Minister of Justice on the subject, and that the conclusion of that gentleman might have been fairly reached and might very possibly be correct; but he desired to point out to the House those circumstances with reference to the Act which led his mind very strongly—he would not say conclusively—to a different conclusion."

He moved in amendment that the question be referred to the law officers of the Crown, and they expressed their opinion on that the legislation of New Brunswick was entirely within the jurisdiction of that Legislature. Then we have Mr. McDougall, who poses sometimes as a constitutional lawyer, who, upon that occasion, gave expression to his opinion as follows:—

"I agree that any interference with the powers that are given to the Local Legislature in the framing of laws unnecessarily through political or national, religious or other motive, except on the broadest public grounds, would be injudicious and improper."

In 1873, the question of the New Brunswick school law was again brought to the notice of this House. A resolution was moved by Mr. Cauchon, seconded by the hon. member for West Durham (Mr. Blake), in which they recited the resolution of the previous year, and asked the intervention of the opinion of the law officers of the Crown. The resolution was as follows:—

"The House regrets that the School Act passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next session of the Legislature of New Brunswick as to remove any just grounds of dissatisfaction that now exist. That the House regrets that the hope expressed in the said resolution has not been realised and that an humble address be presented to Her Majesty embodying the resolution and praying that Her Majesty will be graciously pleased to use her influence with the Legislature of New Brunswick to procure such a modification of the said Act as shall remove such grounds of discontent."

That matter was referred to the law officers of the Crown, and, upon the 18th October, 1875, there was a despatch from Lord Carnarvon, in which he stated:

"That he laid it at the foot of the Throne, but that he could not advise Her Majesty to take any action in respect of it; that he could not advise

the Queen to advise the Legislature of New Brunswick to legislate in any particular direction as that would be undue interference."

Further on he says :

"Holding, as I have already explained, that the constitution of Canada does not contemplate any interference with the provincial legislation, on a subject within the competence of the Local Legislature by the Dominion Parliament, or as a consequence by the Dominion Ministers." So even the law officers of the Crown were of the opinion that, though sympathising with the minority in New Brunswick, they could not advise interference with that law or advise the Crown to disallow the Bill. On that occasion, the hon. member for East York (Mr. Mackenzie), who sympathised very strongly with the minority in the Province of New Brunswick and felt that they had been unfairly dealt with, said :

"But there is a higher principle still which we have to adhere to, and that is to preserve in their integrity the principles of the constitution under which we live. If any personal act of mine, if anything I could do would assist to relieve those who believe they are living under a grievance in the Province of New Brunswick, that act would be gladly undertaken and zealously performed; but I have no right, and the House has no right to interfere with the legislation of a Province when that legislation is secured by an Imperial compact to which all the parties submitted in the Act of Confederation. \* \* \* I have merely to say this, whatever may be our religious proclivities or feelings, whatever may be the feelings that actuate us in relation to local grievances, it is not well that we should endanger the safety of any one of the Provinces in relation to matters provided for in the British North America Act, which is our written Constitution. \* \* It is not desirable that we should make the way open or that anything should be done which would excite religious discussions and permeate religious animosities."

That was good advice, and that advice was followed by the House. Now, I come to consider a question which seems to have exercised the mind of the *Globe* newspaper, and that is the articles in the *Law Journal* and the *Law Times*. I have shown, I think, by constitutional authority, that the Act, if it be unconstitutional or *ultra vires*, should be allowed by the Government to take its course, and those who are injured by its operation or aggrieved by it should at once apply to the law courts for redress. The *Law Journal* has declared beyond all question that the Act is *ultra vires*, and, if that be so, according to the practice we have always adopted, the parties should apply to the courts for redress. The *Law Journal* says :

"It will, we think, be conceded, apart from any provisions in Imperial statutes, that it is *ultra vires* the constitutional power of a Colonial Legislature to confer on or delegate to any foreign sovereign, potentate, or tribunal, lawful jurisdiction or authority to determine, or ratify, the distribution of the moneys or properties of the Crown, or how money grants to the subjects of the Crown, within its colonial jurisdiction, are to be distributed. The Imperial Crown may in any proper

case agree with another crown or nation to refer to a sovereign, or to arbitrators mutually agreed upon questions affecting its belligerent or territorial rights or claims; but this regality of the Imperial Crown is not possessed, nor can it be exercised, by a Colonial Government or Legislature. If it would be *ultra vires* of the Legislature of Ontario to delegate authority to a foreign power—say to the President of the United States—to distribute, or to ratify the distribution of, public moneys legally voted (the Clergy Reserve moneys, for instance), it follows that this delegation of authority to the Pope by the Legislature of Quebec must also be *ultra vires*. What would be unconstitutional in Ontario must be equally unconstitutional in Quebec."

The *Law Journal* lays down the proposition that the Act is *ultra vires*. If that be so, the authorities show clearly that they must go for redress to the courts; but what evidence have we in this instance that the Pope is, as they say, a foreign potentate? The *Law Journal* does not pretend to say how it is, except that, under the Statute of Elizabeth, there were certain documents, or mandates, or judgments issued or sent forth by the Pope, and that those should not be recognised by the authorities in England. But the Statute of Elizabeth was passed under different circumstances from those which exist now, and the position of the Pope to-day, bereft of his temporal power, is entirely different from what it was years ago. Instead of being a foreign power, he is in this case simply an arbiter between two parties in the Province of Quebec. At the time to which my hon. friend from Muskoka alludes, no doubt the Pope did exercise a controlling influence in Europe and over many nations, but now he is bereft of that power and is in a totally different position. The *Law Journal* says this matter is not yet settled, and should be relegated to the courts. That is the position which this Government and all preceding Governments have taken in regard to such a question. Then, as to the *Law Times*. In my judgment, the *Law Times* shows conclusively that it is quite constitutional for the Province to vote money in the way it has. The hon. member for Muskoka (Mr. O'Brien) is entirely at issue with the *Law Times* on that point. If he had read the article in the *Law Times*, he would have found that it holds that the voting of money to ecclesiastical institutions or powers is regarded by that newspaper in an entirely different way from that in which he regards it. I cannot understand, therefore, on what ground the *Globe* made its sudden summersault. The *Law Times* says it is constitutional to vote money for this purpose. Of course, the *Law Times* is in conflict with Mr. Wm. McDougall on that point, but I will refer to him later. The *Law Times* says:

"The constitutional question that arises is not the voting away of public money, be the pretext never so shallow, but the subordination



of the sovereign to a foreign authority, and the placing of Her Majesty's public funds at the disposal of the same foreign authority. It is of course an unquestionable and fundamental proposition of law that the Legislature cannot deny the sovereignty of Her Majesty or acknowledge the sovereignty of any other person, especially as under the Constitution it derives its sole authority from an Act passed by the Imperial Parliament. But there is authority for saying that such a proceeding would be unconstitutional."

Then it goes on to refer to the case of the International Bridge Company and the Canada Southern Railway Company, reported in 28 Grant, page 14, showing that the action of Parliament would be unconstitutional in declaring that an Act of that kind could go into operation without the consent of a foreign power. It quotes the decision of Vice-Chancellor Proudfoot as follows:—

"If Canada has chosen to pass an Act in terms similar to the New York Act, it derives its validity from the Canadian Legislature, not from the Legislature that originally created it. No express clause was required to exclude the laws of one from operating in the territory of the other; the exclusion arose from the countries forming part of different nationalities with different sovereign powers. Each country has assented to the corporation created by it uniting with the corporation created by the other, and bringing into the union the rights and liabilities conferred or imposed upon it, and certainly Canada has not introduced the provisions of any Act of Congress passed subsequent to the union applying to the united company. Were the Canadian Parliament to endeavor to do so—to say that Canadian subjects and Canadian corporations are to be subject to legislation that might be passed by Congress—it would, I apprehend, be unconstitutional."

And upon that ground the *Law Times* argues that it is unconstitutional in having, as it says, delegated the power to the Pope to say whether the law shall go into operation or not. We have seen that the Act does not depend upon the action of the Pope at all, but the money voted by this Act for a particular purpose is left for the Pope to say how much shall go to one church or another, or to one university or another. Now, we have in our Canadian Parliament enactments which are somewhat at variance with the law as laid down by Mr. Justice Proudfoot. In the Niagara Frontier Bridge Company Act we have a clause to this effect:

"The said company shall not commence the actual erection of the said bridge until an Act of the Congress of the United States of America has been passed consenting to or approving the bridging of the said river, or until the executive of the United States of America has consented to and approved thereof."

We have enacted the same thing in the Niagara Frontier Bridge Company Act. I think I can safely say that the constitutional authorities of this country, who have expressed their opinion upon it, are as reliable and as deserving of our confidence as the expressions of the opinion in the *Law Times* or other papers of the same

kind. It seems to me that the *Law Times* could not have carefully considered the question, otherwise it would not have arrived at the conclusion I intend to point out. The hon. member for Muskoka states in his resolution that the Act is not legal, firstly :

"Because it endows from the public funds a religious organisation, thereby violating the unwritten but understood constitutional principle of a complete separation of church and state, and the absolutely equality of all denominations before the law."

We have an answer to that in the *Law Times*, which says :

"The policy of disallowing a Provincial Act must be determined by responsible Ministers of the Dominion. They are constitutionally answerable to Parliament and the people, and as has frequently been shown, the right to disallow Acts was not granted in order that unconstitutional or invalid legislation might be got rid of, but in order that the more important policy of the Dominion should not be interfered with by the Provinces. The whole course of English history shows a struggle with the ecclesiastical houses to prevent property from falling into their hands. The policy both in England and her colonies has been the same—to prevent the property of the nation from falling into mortmain. But it is a question, not of legality, but of policy, and with the policy of the Governments of the day we have nothing to do."

Whereas, on the other hand, the *Mail* says it is entirely a question of policy with which we have to do, yet the *Law Times* is of a contrary opinion :

"If a particular Province choose to depart from this policy and permit the absorption of property by ecclesiastical orders, it is undoubtedly acting within its constitutional rights. The Governor in Council would also be acting within his constitutional rights in opposing such a policy by disallowing all Acts tending thereto ; but it is a question of policy as we have said, and not of law. The Act then must be looked at with regard only to its contents."

So that while the hon. member for Muskoka takes strong ground that no Legislature has a right to vote money for ecclesiastical purposes to seminaries or churches, or anything of the kind in the Province of Quebec, yet the *Law Times* says that they have got absolute power. Now, which authority are we to take? Are we to take that of the *Law Times*, or that of the hon. member for Muskoka, or are we to say that the Government acted strictly within its constitutional rights and privileges by saying : We will not interfere, because they had a perfect right to vote their money ; at any rate it is a matter of purely local concern. Now, it is stated that the Pope is an alien, and as such has no right whatever to express an opinion upon this question. If we look at the Treaty of Paris we find that, to a large extent, his authority is recognised so far as is necessary for church purposes. The clause says :

"For her part, Her British Majesty agrees to grant to the inhabitants of Canada the liberty of the Catholic religion. Consequently she will

give most precise and effective orders, so that her new Roman Catholic subjects may profess and practise their religion, according to the rites of the Roman Church, in so far as the laws of Great Britain permit."

Now, the law of Great Britain permits the Catholics to carry on the affairs of their church just as they please, so long as they do nothing in conflict with the laws of England. It seems to me, looking at the *Law Times* and *Law Journal*, that they agree with the proposition I laid down, that if an Act be *ultra vires* or unconstitutional, it should not be a subject of discussion, but one which the Government should leave entirely to the jurisdiction of the courts. Now, we have another authority in this House—Mr. Wicksteed, who has been for years the law officer for this House. He has expressed his opinion upon it, and I find in a communicated article this language :

"And as respects the article questioning the constitutionality of the said Act,—it does not seem to me that the English Acts cited in it can apply to Canada, which, when they were passed, was no part of the realm of England, and the inhabitants of which are by subsequent Acts of the Imperial Parliament, guaranteed the free exercise of the Roman Catholic religion, of which the Pope is the head, and his supremacy as such is part of its very essence. The later law derogates from and virtually repeals any former provision contrary to it. The English laws disqualifying Roman Catholics from holding certain offices were never in force in Canada. The money appropriated belonged to the Province, and is granted by its Legislature for the purposes for which the property from which it arises was given by the French King, and the Act of Appropriation is sanctioned by the assent of the Queen, who may, without impropriety, avail herself, in dealing with it, of the advice and assistance of the head of the church and of an ecclesiastical and educational corporation, which, if not legally the same, is morally the representative and successor of that to which the original grant was made, and which, with the Pope, will be bound to use the money in accordance with and solely by virtue of the powers given them by the Act."

So we find that nearly every authority learned in the law who has expressed an opinion, points clearly to the fact that the Government acted entirely within the constitution. But, Sir, these gentlemen who are so terribly annoyed because the Pope has been called in, and has chosen to say how that money belonging to the church shall be distributed, were not so particular a short time ago when the Pope's opinion was asked upon a more important question. In Ireland, not very long ago, when, as we know, dissensions were rampant, when the people of England were looking to Ireland with dismay, were not the people of England glad to have the Pope act as arbitrator? We have here a very important question, and I see nothing in the English courts, in the English Parliament, or in the English Government, protesting against this. On the contrary, they were glad to see the Pope give his opinion on that question. Also, when the question arose upon boycotting and paying

rents, the matter was referred to the Pope, and the Pope issued—I do not know what you would call it—a pronouncement, or whatever it may be, and sent that to Ireland. No fault was found with that. I wonder the hon. member for Muskoka did not find fault with that. He is opposed to Home Rule, as I am myself, but at the same time, he found no fault with the Pope being called in as arbiter to settle this most important of all questions. Now, let us see what the Pope says:

"On several occasions the Apostolic See has given to the people of Ireland (whom it has always regarded with special benevolence) suitable admonitions and advice, when circumstances required, as to how they might defend their rights without injury to justice or the public peace. Our Holy Father Leo XIII, fearing lest in that species of warfare that has been introduced amongst the Irish people into the contest between landlords and tenants, which is commonly called the Plan of Campaign, and in that kind of social interdict, called boycotting arising from the same contest, true sense of justice and charity might be perverted, ordered the Supreme Congregation of the Inquisition to subject the matter to serious and careful examination.

"Hence the following questions were proposed to their Eminences the Cardinals of the Congregation: Is it permissible, in the disputes between landowners and tenants in Ireland to use the means known as the Plan of Campaign and boycotting?"

"After long and mature deliberation their Eminences unanimously answered in the negative, and the decision was confirmed by the Holy Father on Wednesday, the 18th of the present month.

"The justice of this decision will be readily seen by any one who applies his mind to consider that a rent agreed on by mutual consent cannot, without violation of a contract, be diminished at the mere will of tenant, especially when there are tribunals appointed for settling such controversies and reducing unjust rent within the bounds of equity, after taking into account the causes which diminish the value of the land."

No objection was taken to that. The Pope took steps in these matters as between landlord and tenant, he denounced the plan of campaign, and declared that in his judgment the course taken by supporters and others in the Catholic Church was improper, and he advised them to take a different course. It seems to me that, looking at this question in all its lights, this House is justified in declaring that the Government have acted fairly with the Province of Quebec. Let me briefly refer to the amendment moved by the hon. member for Muskoka (Mr. O'Brien). It states:

"Firstly, because it endows from public funds a religious organisation, thereby violating the unwritten but undoubted constitutional principle of the complete separation of church and state and of the absolute equality of all denominations before the law."

I think I have met that objection, and I have read the opinion of the *Law Times*, an authority which the hon. gentleman will not endeavor to controvert. The amendment further states:

"Secondly, because it recognises the usurpation of a right by a foreign authority, namely: His Holiness the Pope of Rome, to claim that his consent was necessary to empower the Provincial Legislature to dispose of a portion of the public domain, and also because the Act is made to depend upon the will, and the appropriation of the grant thereby made is subject to the control of the same authority."

Let anyone look at the Act and he will see that it says nothing with respect to the benefit of the Jesuits. The preamble of the Act shows there was a controversy going on between the church and the Province of Quebec in regard to claims respecting the Jesuits' estates, and with a view to settling that question negotiations were opened with the Pope in order to ascertain how it could be settled amicably. There is not a word in the whole of the correspondence or in the whole of the Act to show that it was a settlement with the Jesuits themselves, but only with regard to the Jesuits' estates. The hon. gentleman has forgotten that point. The hon. member for Muskoka (Mr. O'Brien) entirely fails to point out that there is one word in the Act respecting a settlement with the Jesuits, but that it is for a settlement in regard to the Jesuits' estates, which the Act says were confiscated by Imperial authority; and I have endeavored to show from history that there is considerable doubt with respect to the confiscation and as to whether the estates really were within the possession of the Crown. The Act itself says:

"Whereas it is expedient to put an end to the uneasiness which exists in this Province, in connection with the question of the Jesuits' estates, by settling it in a definite manner: Therefore Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows."

It is true that the head of the Jesuits was authorised by the Pope to enter into negotiations, but these negotiations were not with the Jesuits at all, and there is not one word in the Act to show it; it was for the purpose of settling a long standing question as to whether these estates belonged to the church or not. The hon. gentleman says that the Quebec Government are taking out of the Jesuits' estates money and handing it over to the church authorities, that \$400,000 is to be placed at the disposal of the Pope and \$60,000 at the disposal of the Protestant clergy. Such is not the fact, for there is not a word said about the Jesuits' estates. The Quebec Government has to take the money out of the consolidated revenue, and power is given them by the Legislature, in section 6 of the Act, to sell the estates and apply the money in any way it may think proper. Section 6 says:

"The Lieutenant Governor in Council is hereby authorised to dispose, in the manner he deems most advantageous to the Province, of the whole

property, movable and immovable, interests and rights, generally whatsoever of the Province upon the said property known as the Jesuits' estate."

It, therefore, appears that the Lieutenant Governor in Council is authorised to pay out of any public moneys at his disposal, \$400,000 under the conditions named, and may make any deed necessary for the full and entire execution of such agreement. The money, therefore, is taken out of the consolidated fund, and authority is taken to sell the Jesuits' estates and apply the proceeds as the Lieutenant Governor in Council may see fit. It appears to me that upon every ground advanced by the hon. member for Muskoka (Mr. O'Brien), this House is bound to answer his interrogations in the negative and to vote that the propositions made by the hon. gentleman are not in accord either with facts, or with history, or with constitutional law. He says further:

"Thirdly, because the endowment of the Society of Jesus, an alien, secret and politico-religious body, the expulsion of which from every Christian community wherein it had a footing, has been rendered necessary by its intolerant and unchristian intermeddling with the functions of civil government, is fraught with danger to the civil and religious liberties of the people of Canada."

The hon. gentleman forgot to say that there was St. Mary's College, which was a recognised corporation in the Province of Quebec. Yet he deliberately declares they are an alien corporation. What does the Act of 1887 say? It states distinctly that they were incorporated as a body and were recognised as a corporation by the Province of Quebec. Those are the facts, and I leave the House to judge as to their application. I have endeavored to show as briefly as possible, although I have necessarily occupied considerable time in doing so, that the rights of the minority are not interfered with, and I think I have shown that successfully; that the people have acquiesced in and approved both Acts, which is a fact beyond all question; that the feeling raised in Ontario is entirely uncalled for, the minority in Quebec asking for no such support for them. I have pointed out to the satisfaction of this House, I think, that a large amount of ignorance has been displayed by public men in Ontario in discussing this question, and that the hon. member for Muskoka (Mr. O'Brien) was somewhat at fault in his history of the matter. I have also shown that the attacks on the Jesuits, that the historical references made to the past are not with a view so much to condemn the Jesuits as to stab the Roman Catholic Church. That is, at all events, my judgment. I gather that from the resolution passed at the different meetings

and the course adopted, a course which in my judgment is not justifiable. I have pointed out that the Jesuits of to-day are not the Jesuits of 100 years ago, that the Province of Quebec are in sympathy with the Jesuits, and I have shown that they are not an alien corporation, and that they are not such people as they are sometimes considered to be in Canada. It is true they were suppressed in 1773, but they were restored in 1814, because the Roman Catholic Church felt that the Jesuits were not at that time the same class of men as they were before; that they did not act as others had acted according to history, but were influenced in their action simply by a desire to promote the best interests of the church. I have shown conclusively that they are entirely in accord with the Roman Catholic Church. I have also shown conclusively that according to our constitution the course taken by the Government was the only proper one, and in support of my statement I have the authority of the *Law Times* and the *Law Journal*. I have also shown conclusively that the Government was justified in voting money for ecclesiastical purposes, and had a perfect right to vote money for Laval University or any other seminary or similar institution, and that if they acted harshly towards any portion of the community it became a question of policy. I have also shown that the Province of Quebec were not bound to give \$60,000 to the Protestants which was more than their proportion of the money. It does seem to me, Sir, that it is unwise and inexpedient that this House should discuss a question such as this from the standpoint of my hon. friend from Muskoka (Mr. O'Brien). I think that I have shown that from every point of view the Government was justified in taking the course they have done: that is to leave the matter to the courts to settle, whether or not it is *ultra vires* or unconstitutional. I, Sir, am going to be the last one to join in an unholy crusade against any portion of my fellow-countrymen. To-day, we are joined together for the purpose of building up this great Confederation into a magnificent nation. Is all that we have accomplished for the last twenty-one years to be set at naught? I, Sir, shall not be a party to such a course. While I feel as strong in my Protestant views as any man in this House, I recognise the foundation of Protestant principles: civil and religious liberty. As long as I occupy a seat in this House, even though I be threatened with extermination from my constituency, I shall endeavor to deal out equal justice to all my fellow-countrymen.

A. SENECAL, Superintendent of Printing.